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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ARIEL FREANER,

Plaintiff

v.

ENRIQUE MARTIN LUTTEROTH VALLE,
an individual;
HOTELERA CORAL, S.A. de C.V.,
a stock company of Baja California,
Republic of Mexico;
and DOES 1 to 10,

Defendants.

Case No. '11CV1819 JLS MDD

**ENRIQUE LUTTEROTH's
NOTICE OF REMOVAL
OF ACTION**

UNDER 28 U.S.C. § 1441(b)

[Original Jurisdiction - Treaties
9 U.S.C. §§ 205, 302]

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA:**

PLEASE TAKE NOTICE that a named defendant in this action, Enrique Martin Lutteroth Valle ("**Mr. Lutteroth**"), hereby removes to this Court the state-court action described below.

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1 1. Around June 21, 2011, an action was commenced in the Superior Court of
2 the State of California in and for the County of San Diego ("**State Court**"), entitled Ariel
3 Freaner v. Enrique Martin Lutteroth Valle and HOTELERA CORAL, S.A. DE C.V. as case
4 number 37-2011-00093218 by filing an unverified form *Complaint for Breach of Contract*
5 ("**Complaint**"). Correct copies of the three-page, unverified, form Complaint and the
6 eighteen-page exhibit attached thereto are attached as **Exhibit A** to the Index of Exhibits
7 filed with this Notice.

8 2. Mr. Lutteroth is one of two named defendants. The second named
9 defendant is HOTELERA CORAL, S.A. DE C.V., a stock company of Baja California, Republic
10 of Mexico.

11 3. Upon information and belief, to date, Plaintiff has not effected service of
12 process of the Summons and Complaint on named defendant HOTELERA CORAL, S.A. DE
13 C.V., a stock company of Baja California, Republic of Mexico.

14 4. Mr. Lutteroth is a stockholder of HOTELERA CORAL, S.A. DE C.V., a stock
15 company of Baja California, Republic of Mexico.

16 5. Correct copies of the *Summons* obtained from the Clerk of the State Court,
17 the *Civil Case Cover Sheet* filed with the State Court, and the *Notice of Case Assignment*
18 and certain *ADR Information* are attached respectively as **Exhibit B**, **Exhibit C**, and
19 **Exhibit D** to the Index of Exhibits filed with this Notice.

20 6. Correct copies of *Enrique Lutteroth's Petition for an Order Compelling*
21 *Arbitration; Notice of Petition; Memorandum of Points and Authorities; Declaration of*
22 *Counsel; and Exhibits 1 - 7* and the corresponding *Proof of Service* filed with the State
23 Court are attached as **Exhibit E** to the Index of Exhibits filed with this Notice.

24 7. Correct copies of *Defendant Enrique Lutteroth's Notice to State Court of*
25 *Removal to Federal Court* and of *Defendant Enrique Lutteroth's Notice to Adverse Party*
26 *of Removal to Federal Court* are attached respectively as **Exhibit F** and **Exhibit G** to the
27 Index of Exhibits filed with this Notice.

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1 8. The sole exhibit to the Complaint is a written agreement titled *Freaner &*
2 *Associates Service Agreement* dated June 23, 2008 (“**2008 Contract**”).

3 9. Article 18-d of the 2008 Contract requires arbitration of the matters covered
4 thereunder.

5 10. Both Mexico and the United States are parties to the United Nations
6 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“**New York**
7 **Convention**”). The enabling statutes for the New York Convention are set forth in part
8 at 9 U.S.C. § 201 *et seq.*, under Chapter 2 of Title 9 of the U.S. Code (Title 9 is titled
9 “Arbitration”).

10 11. Section 202 of Title 9 of the U.S. Code provides in relevant part that an
11 arbitration agreement “arising out of a legal relationship, whether contractual or not, which
12 is considered as commercial, including a transaction, contract, or agreement described in
13 section 2 of this title, falls under the convention.” 9 U.S.C. § 202.

14 12. Section 203 of Title 9 provides in relevant part that U.S. district courts “shall
15 have original jurisdiction” over any action or proceeding “falling under the Convention,”
16 because it shall be “deemed to arise under the laws and treaties of the United States.” 9
17 U.S.C. § 203.

18 13. Section 205 of Title 9 provides in relevant part: “Where the subject matter of
19 an action or proceeding pending in a State court relates to an arbitration agreement or
20 award falling under the Convention, the defendant or the defendants may, at any time
21 before the trial thereof, remove such action or proceeding to the district court of the United
22 States for the district and division embracing the place where the action or proceeding is
23 pending.” 9 U.S.C. § 205.

24 14. Both Mexico and the United States are parties to the Inter-American
25 Convention on International Commercial Arbitration (“**Panama Convention**”), entered into
26 force for the United States in 1990. The enabling statutes for the Panama Convention are
27 set forth in part at 9 U.S.C. § 301 *et seq.*, under Chapter 3 of Title 9 of the U.S. Code.

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CIVIL COVER SHEET

'11CV1819 JLS MDD

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
Ariel Frenner

DEFENDANTS

Enrique Martin Lutteroth Valle, Hotelera Coral, S.A. de C.V.

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.(c) Attorney's (Firm Name, Address, and Telephone Number)
Law Office of James J. Warner
3233 3rd Ave, San Diego, CA 92103
(619) 243-7333Attorneys (If Known)
Horton, Knox, Carter & Foote, LLP
1230 Columbia Street, Suite 550
(619) 595-0220

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

9 U.S.C. §§ 205, 302; 28 U.S.C. § 1441(b) - Treaties

Brief description of cause:

plaintiff alleged breach of contract

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

170,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S)

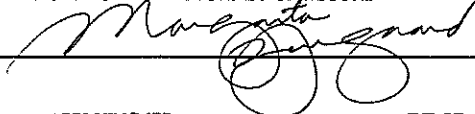
(See instructions):

IF ANY → Removed CaseJUDGE Judith F. HayesDOCKET NUMBER 37-2011-00093218

DATE

08/15/2011

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE